

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:
(202) 326-7999

May 22, 2023

Via ECF

The Honorable Sarah Netburn
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *In re Terrorist Attacks on September 11, 2001*, 03-md-1570 (GBD) (SN)

Dear Judge Netburn:

As directed by the Court's order by memorandum endorsement of April 17, 2023, ECF No. 9025, I write on behalf of Defendant Kingdom of Saudi Arabia ("Saudi Arabia") to submit the parties' joint proposal for confidentiality review of *Daubert* motions. The Plaintiffs' Executive Committees ("Plaintiffs"), the Federal Bureau of Investigation ("FBI"), and Defendant Dallah Avco all join in this letter.

Filings in the *Daubert* motion sequences that contain information that is currently subject to the FBI protective order, ECF No. 4255, the MDL protective order, ECF No. 1900, or both, will be made under seal. Within 30 days after each sealed filing by any party, Saudi Arabia and Dallah Avco will serve on Plaintiffs, the FBI, and one another a highlighted version of the filing with highlighting showing any proposals to redact or seal documents that contain Saudi Arabia's or Dallah Avco's confidential information. Saudi Arabia and Dallah Avco will include with their proposals comments giving reasons for any proposed redactions, but reserve the right to supplement those reasons at a later time.

Also within 30 days after each filing by any party, that party (including Saudi Arabia, Dallah Avco, and Plaintiffs) will serve on the FBI a version of the filing that identifies all parts of the document that contain material currently subject to the FBI protective order. After such service, the FBI will then have 30 days to review and to determine what parts, if any, of the parties' briefs or legal memoranda should be redacted or remain under seal. The FBI will have an additional 60 days (for a total of 90 days after service) to review any exhibits in support of the filing. After the FBI informs the parties of its position, the parties will meet and confer to attempt to resolve or narrow any disputes. If the parties are unable to resolve all disputes, they will attempt to reach a further joint proposal for submitting any disputes for resolution to the Court.

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Where it is feasible to prepare proposed redactions or identify FBI confidential information in less than 30 days after a filing (including providing redactions or identifications on a rolling basis), it is the parties' intent to do so in order to expedite the process.

The parties and the FBI have further discussed appropriate timelines for redaction review in connection with Saudi Arabia's and Dallah Avco's renewed motions to dismiss, including Dallah Avco's alternative motion for summary judgment. For that motion sequence, the parties have agreed to follow a similar 30-day timeline for the parties to propose redactions for Saudi Arabia's or Dallah Avco's confidential material, and for the parties to identify FBI confidential information. The FBI has further agreed to a 30-day period in which to review and to determine what parts, if any, of the parties' briefs or legal memoranda should be redacted or remain under seal. The FBI has requested, and the parties agree, to meet and confer concerning a timeline for the FBI's review of exhibits once the relevant filings have been made and the volume of the exhibits is known.

This proposal is without prejudice to any argument that any party or the FBI may make that any document should or should not be redacted or sealed, including without limitation the position of Plaintiffs that all documents should be unsealed in their entirety.

Respectfully submitted,

/s/ Michael K. Kellogg

Michael K. Kellogg
Counsel for the Kingdom of Saudi Arabia

cc: All MDL Counsel of Record (via ECF)